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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT PAPER NUMBER

3654

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/683,538

Applicant(s)

PATIL ET AL.

Examiner

Terrell H. Matthews

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application (PTO-152) |
| 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/09/2004</u> . | 6) ☐ Other: ____ |

DETAILED ACTION

Claims 1-24 are pending in the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 14, 23-24 is rejected under 35 U.S.C. 102(b) as being anticipated by Altman (4453458).

Referring to claim 1, 14, 23-24. Altman discloses a "Food Processing Apparatus" as claimed. See Figs. 1-9 and respective portions of the specification. Altman discloses a slicer configured to cut a vegetable having a leaf portion and a core portion into a plurality of pieces of the leaf and core portions to form a mixture of leaf and core pieces (See Col. 8 l. 43-55 & Col. 9 l. 9-13) and a sorting mechanism having an infeed end and a discharge end being adapted to separate core pieces from the mixture (See Col. 9 l. 51-54). It is broadly construed and generally understood that the waste product is the core and that the useful product is the leaf portion, which is collected and removed. Altman additionally discloses that as the conveyor system (120) advances, individual flowerlets are dropped into the collection pan and are finally allowed to fall downwards onto a conveyor belt for possible further processing inclusive of packaging (See Col. 11

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I. 13-19). Altman further discloses that at station (118) undesirable waste products are collected and removed whereas from station (119) one obtains an entirely useful product, which needs to be separately collected and removed (See Col. 9 l. 51-55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 16-22, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman (4453458) in view of Jacobson (3905897).

Referring to claims 2-5. Altman discloses the invention as discussed above.

Altman does not disclose a sorting mechanism comprising one or more screens having a plurality of screen apertures, wherein the plurality of screen apertures have a shape and size suitable for separating shredded vegetable pieces with various dimensions. Jacobson discloses a "Material Classifying Apparatus" as claimed. See Figs. 1-9 and respective portions of the specification. Jacobson further discloses a sorting mechanism comprising screen (42) having a plurality of screen apertures (43), wherein the plurality of screen apertures have a shape and a size suitable for separating pieces of various dimensions (See Col. 3 l. 5-9). Additionally, Jacobson discloses a perforated steel plate

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(46), which serves as a second screen connected to screen (42). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Altman to include the teachings of Jacobson and the sorting mechanism comprising one or more screens having a plurality of apertures that differ in size and shape depending on which screen located between the infeed and discharge end so that the leaf and core portions could be separated from each other to make the process more efficient and productive, wherein the useful part could be separated from the waste product.

Referring to claims 16-22,24. With respect to claim 16-21,24, the method described in these claims would inherently result from the use of Altman's apparatus in view of Jacobson as advanced in detail above. Altman discloses an apparatus capable of providing a vegetable having a leaf and core portion and cutting it into leaf and core portions as well as separating the core pieces from the mixture, while Jacobson discloses sorting a mixture through screen apertures having different size shapes and sizes.

Claims 6-8,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman (4453458)

Referring to claims 6-8,15. Altman discloses the invention as described in detail above. Altman does not disclose his apparatus comprising a feed shaker that transports the mixture from the slicer to the sorting mechanism. Altman discloses however a conveyor (120) as seen in Fig. 7 that transports vegetables through coring and cutting

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stations. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Altman so that conveyor system (120) consisted of a feed shaker so that the vegetables could be transported with uniform distribution.

Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altman in view of Jacobson in further view of Miyamoto (6637600).

Referring to claims 9-13. Altman discloses the invention as described above.

Altman does not disclose wherein the feed shaker and the sorting mechanism form a non-bias feed arrangement and wherein the mixture is transported from the feed shaker onto the sorting mechanism through the end of the feed shaker. Jacobson discloses the invention as described above. Miyamoto discloses a "Waste Plastics Separator" as claimed. See Figs. 1-32 and respective portions of the specification. Miyamoto further discloses a feed conveyor (4) that conveys items to conveying conveyor (5) that is tilted in the width direction (See Col. 8 l. 63-66 & Figs 4,7). Miyamoto discloses that conveyor (5) is tilted in the width direction it is broadly construed and generally understood that the conveyor could be tilted at varying angles. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus so that the feed shaker and sorting mechanism formed a bias angle so that the items being feed to the sorting mechanism were more evenly spaced and better aligned so that they did not clump up and make it more difficult for the sorting mechanism to separate the items.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conkey U.S. Patent No. 4036123 discloses a "Machine of cutting cores of vegetables" comprising a feed conveyor and a slicer which cuts vegetables containing a leaf and a core portion into sections comprising a leaf and core portion and conveys it for further processing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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THM

Kathy Matecki

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